IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WP(C).No. 22341 of 2004(I)

PETITIONER:

C.S.RAVEENDRAN, PROPREITOR,
M/S.CHAVARCODE WOOD INDUSTRIES AND FURNITURE,
CHAVARCODE P.O. PARIPPALLY, TRIVANDRUM.

BY ADV. SRI.G.S.REGHUNATH

RESPONDENTS:
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1. THE STATE OF KERALA, REP. BY THE SECRETARY TO GOVERNMENT(REVENUE), SECRETARIAT, TRIVANDRUM.

2. THE DISTRICT LEVEL COMMITTEE(STE), DISTRICT INDUSTRIES CENTRE, TRIVANDRUM.

3. THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, TRIVANDRUM.

4. THE DISTRICT COLLECTOR, COLLECTORATE, TRIVANDRUM.

5. THE DEPUTY TAHSILDAR (RR), CHIRAYINKEEZHU, TRIVANDRUM.

6. THE KILIMANOOR CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD.T.316, KILIMANOOR.

R1 TO R5 BY G.P. SRI. K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE CERTIFICATE ISSUED BY THE KILIMANOOR CO-OP. AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD. T. 316, KILIMANOOR DATED 22.7.2004 TO THE PETITIONER.

EXT.P2 TRUE COPY OF THE PERMANENT REGISTRATION CERTIFICATE NO. 09.10.25153 DATED 16.6.2000

EXT.P3 TRUE COPY OF THE ASSESSMENT ORDER DATED 3.10.2003

EXT.P4 TRUE COPY OF THE LETTER DATED 27.3.2004 ISSUED FROM THE OFFICE OF THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE.

EXT.P5 TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 7 OF THE RR ACT ISSUED BY THE 5TH RESPONDENT DATED 12.3.2003

EXT.P6 TRUE COPY OF THE DEMAND SNOTICE UNDER SECTION 33 OF THE RR ACT ISSUED BY THE 5TH RESPONDENT DATED NIL.

EXT.P7 TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER BEFORE THE 5TH RESPONDENT DATED -/03/2004

EXT.P8 TRUE COPY OF THE JUDGMENT DATED 1.4.2004 IN WPC 11574 OF 2004 BEFORE THIS HON'BLE COURT.

EXT.P9 TRUE COPY OF THE PROCEEDINGS NO. F2/2246/2004 DATED 23.6.2004 OF THE THIRD RESPONDENT.

EXT.P10 TRUE COPY OF THE APPLICATION SUBMITTED BEFORE THE 6TH RESPONDENT BY THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 22341 OF 2004

Dated this the 21st day of November, 2007

JUDGMENT

Petitioner is challenging Ext.P9 order whereunder the sales tax exemption claimed by the petitioner was rejected by the District Level Committee. It is seen that sales tax exemption that was being granted to small scale industrial units was discontinued by the Government with effect from 1.1.2000. Petitioner admittedly started commercial production on 10.6.2000, that is six months after exemption was withdrawn. Strangely application for sales tax exemption was submitted only after four years from starting the industry. Obviously there is lack of bona fides in the claim of exemption. However, petitioner's case is that petitioner comes within SRO 1092/99 which provided exemption for industries which had atleast taken effective steps, like availing of finance, acquiring of plant and machinery, etc., prior to 1.1.2000. Petitioner could not establish with any evidence that petitioner took effective steps in terms of the notification. Petitioner has now produced Ext.P10 which is only an application for loan. It is

not proof of satisfaction of any of the conditions referred to in the notification relied on by the petitioner. In the circumstances, the claim for sales tax exemption is de void of any merit and the same is rejected. However, if the petitioner remits arrears of tax and interest from due date within two months from now, there will be direction to the respondents to withdraw the demand of penalty but after payment as above. However, if payment of tax and interest is not made as above, respondents are free to proceed with recovery for tax, interest and penalty also.

W.P. is disposed of as above.

(C.N. RAMACHANDRAN NAIR)
Judge